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SUPREME COURT OF THE UNITED STATES

RAYMOND MIRELES *v.* HOWARD WACO

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 91-311. Decided October 21, 1991

JUSTICE SCALIA, with whom JUSTICE KENNEDY joins,  
dissenting.

"A summary reversal . . . is a rare and exceptional disposition, 'usually reserved by this Court for situations in which the law is well settled and stable, the facts are not in dispute, and the decision below is clearly in error.'" Stern, Gressman & Shapiro, *Supreme Court Practice* 281 (6th ed. 1986) (quoting *Schweiker v. Hansen*, 450 U. S. 785, 791 (1981) (Marshall, J., dissenting)). As JUSTICE STEVENS' dissent amply demonstrates, the decision here reversed is, at a minimum, not *clearly* in error.

I frankly am unsure whether the Court's disposition or JUSTICE STEVENS' favored disposition is correct; but I am sure that, if we are to decide this case, we should not do so without briefing and argument. In my view, we should not decide it at all; the factual situation it presents is so extraordinary that it does not warrant the expenditure of our time. I would have denied the petition for writ of certiorari.

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